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The Child Victims Act

Published on January 6th, 2019

Legislative Memorandum

Over the last couple of years, many Americans have learned of the shocking scale and horrific nature of sexual abuse that tragically permeates society—from Olympic-level athletic programs at public institutions; to abuse by family members; the reprehensible rape and sexual abuse of children in our public schools; and, ashamedly, by clergy within the Catholic Church.

In many instances, the very individuals and institutions that should have protected victims and stood up to do the right thing, failed to act, or even worse, covered up wrongdoing. In the Catholic Church, this has created a moral and spiritual crisis, and resulted in a loss of confidence in leadership among the faithful, and prompted federal and state investigations of dioceses here and elsewhere.

Our Bishops and other clergy have met with many survivors who have been brave enough to step out of the shadows to share their stories of betrayal and pain. Those meetings have made clear how these crimes have shattered children's lives and haunted victims for decades. The Church owes it to survivors to be a part of the solution to this epidemic of evil, and to play a role in the healing of those who have suffered.

We believe this begins by working constructively with lawmakers to pass an amended Child Victims Act (CVA). Historically, we have opposed this legislation, but are committed to strengthening and supporting this legislation—ensuring all victim-survivors are treated equally and are afforded the same protections and recourse under the law.

In New York State, every Catholic diocese has established a voluntary compensation program to offer victim-survivors of abuse from any time in the past an important avenue for compensation, reconciliation, and healing. It is centered on the Church acknowledging the abuse, providing survivors a simple and efficient process for financial compensation if they choose, and promoting reconciliation between those whose innocence was shattered and the Church that failed them.

These programs are completely voluntary and no victim-survivor is required to participate. Known in most dioceses as the Independent Reconciliation and Compensation Program, they have been set up independent of the Church and are administered in most dioceses by Kenneth Feinberg, who ran the September 11th Victims Fund. Other dioceses have used distinguished former jurists like retired Court of Appeals Judge Howard Levine in the Diocese of Albany. Prominent New Yorkers like Raymond Kelly, the former New York City police commissioner, Gail Prudenti, dean of the Maurice A. Deane of Law at Hofstra University, and others in the field of mental health, law enforcement and the law have served as independent overseers of these programs. The administrators alone determine the amount of compensation in each individual case, and no confidentiality requirements bind survivors; they are free to name their abuser, discuss the process, and reveal the amount of the compensation offered.

These programs have been positively received by victim-survivors, many of whom have been relieved to avoid the lengthy and uncertain litigation process, satisfied in the level of financial compensation, and emotionally

freed by after feeling listened to and believed.

However, we agree that more must be done to help victim-survivors.

The sponsors of the Child Victims Act are right to pursue legislation and have made a strong argument for a one-year retroactive re-opening of the civil statute of limitations (a “window” bill); however, the bill in its current form lacks critical protections for victim-survivors and we believe it should be strengthened in the following ways:

- **Eliminate the Criminal Statute of Limitations for Child Sexual Abuse** — We believe predators should be punished criminally regardless of when abuse occurred. The New York State Legislature already has eliminated the criminal statute of limitations for the most serious cases of sexual abuse, such as rape, but it should be expanded to all abuse, particularly in the case of child victims.
- **Statewide Expedited Victim Compensation Program** — We believe it is important to give all victim-survivors—regardless of where they were abused—the ability to pursue an expedited state-administered compensation program (like the current program outlined above) that is overseen by an independent commission or administrator that would allow any victim of sexual abuse to forgo the time-consuming and emotionally traumatic litigation process in favor of a confidential process that favors victim-survivors.
- **Close the “Public School Loophole”** — Currently, technical language called “notice of claim protections” denies victim-survivors abused at public institutions, like public schools and universities, access and recourse through the courts for newly re-opened child sexual abuse claims. We believe this is wrong, and the CVA should include language to close this loophole.

We believe these amendments would strengthen the Child Victims Act to better serve victim-survivors and provide a model for other states. We would support the legislature passing, and Governor Cuomo signing, this amended legislation this session.

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